

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ELECTRONIC PRIVACY INFORMATION CENTER et
al.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF JUSTICE,

Defendant.

Civ. Action No. 19-810 (RBW)

STATUS REPORT

Plaintiff Electronic Privacy Information Center (“EPIC”) respectfully submits this status report to propose a schedule for the consolidated Freedom of Information Act (“FOIA”) cases.

EPIC reports to the Court as follows:

1. On March 22, 2019 the Special Counsel delivered to the Attorney General of the United States the Special Counsel’s “Report On The Investigation Into Russian Interference In The 2016 Presidential Election” (hereinafter “the Special Counsel’s Report”).

2. On March 22, 2019, EPIC filed a Complaint for the release of the Special Counsel’s Report and related records. ECF No. 1.

3. On March 29, 2019, EPIC filed a motion for a Preliminary Injunction, seeking the expedited release of the Special Counsel’s Report. ECF No. 7.

4. On April 4, 2019, Buzzfeed filed a Complaint and Motion for a Preliminary Injunction, seeking the expedited release of the Special Counsel’s Report. Dkt. No. 19-957.

5. On April 9, 2019, this Court held a hearing on EPIC’s Motion for a Preliminary Injunction. The Court denied EPIC’s Motion without prejudice and ordered “the government

shall file its answer to the plaintiff's Complaint on or before April 25, 2019" and further ordered that "the parties shall appear before the Court on May 2, 2019, at 10:00 a.m. to discuss how the parties wish to proceed in this case." ECF No. 24.

6. On April 16, 2019, the Court held a hearing on Buzzfeed's Motion for a Preliminary Injunction. The Court denied Buzzfeed's Motion without prejudice and ordered the government to file its answer on or before April 25, 2019. The Court further ordered the parties to appear at the May 2, 2019 hearing.

7. On April 18, 2019, the DOJ released a redacted version of the Special Counsel's Report (hereinafter "the Redacted Special Counsel's Report"). EPIC Response to Order to Show Cause Ex. 1, ECF Nos. 26-1, 26-2. The Redacted Special Counsel's Report contains redactions on more than 170 pages, including multiple pages withheld in their entirety. *Id.*

8. On April 22, 2019, the Court ordered that "to the extent that the plaintiffs in the above-captioned matters are seeking the release of the Special Counsel Mueller's report regarding the investigation into Russian interference in the 2016 United States presidential election, Case No. 19-cv-810 is CONSOLIDATED with Case No. 19-cv-957." The Court further ordered that the parties shall make all future filings only in Case No. 19-cv-810.

9. The Attorney General is scheduled to testify regarding the contents of the Special Counsel's Report before the Senate on May 1, 2019, and before the House of Representatives on May 2, 2019

10. The Parties have conferred regarding the schedule and agree that the most efficient way to proceed is to set an expedited schedule for summary judgment¹ motions.

¹ Because EPIC's FOIA request also concerns records other than the Special Counsel's Report, the proposed cross motions would be for *partial* summary judgment in EPIC's case.

11. The DOJ has represented that the Office of Information Policy will produce a version of the Special Counsel's Report to EPIC and to Buzzfeed as early as Thursday, May 2, but no later than Monday May 6.

12. EPIC hereby requests that the Court enter an Order adopting the following briefing schedule for expedited cross motions for summary judgment:

- DOJ Motion for Summary Judgment May 24, 2019²
- EPIC Opposition and Cross Motion for Summary Judgment June 14, 2019
- DOJ's Combined Reply and Opposition to the Cross Motions June 21, 2019
- EPIC's Reply June 28, 2019
- Hearing on Cross Motions July 8, 2019

13. EPIC also requests that the Court order the DOJ to make the original, unredacted version of the Special Counsel's Report available for *in camera* inspection with the filing of the agency's Motion for Summary Judgment on May 24, 2019.

14. EPIC and the DOJ have also conferred regarding a schedule for the processing of the remainder of EPIC's FOIA Request.

15. EPIC has agreed to narrow the scope of its request in two ways. First, EPIC will strike the term "drafts" from all seven categories in its FOIA request. Second, EPIC will clarify that in Category 7(a) EPIC is seeking only "All other *formal written* reports, *excluding e-mails, informal communications, and logistical memoranda*, summarizing or describing..."

16. EPIC also proposes that the most expeditious way to process EPIC's FOIA Request for the remaining records is to first prioritize the processing and release all non-exempt

² These dates assume that OIP will produce a version of the Special Counsel's Report on May 2, 2019.

records responsive to Category 5.

17. EPIC proposes that the DOJ complete production of records responsive to Category 5 within 30 days, and that the parties then confer regarding the processing of the remaining categories and file a status report with the Court establishing a production schedule. EPIC proposes the following schedule for processing:

- DOJ completes processing and production of all non-exempt records responsive to Category 5 of EPIC's FOIA Request June 3, 2019
- EPIC and DOJ meet and confer re: processing and scope of remaining categories of EPIC's FOIA Request
- Joint Status Report establishing schedule for production of additional records responsive to EPIC's FOIA Request June 17, 2019

18. The DOJ has stated that it "opposes the positions outlined in the status report and will file its own status report prior to the hearing."

Dated: April 30, 2019

Respectfully Submitted,

MARC ROTENBERG, EPIC President
and Executive Director

/s/ Alan Butler

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